

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ADRIAN HUFF, as Chairman of the Board of  
Trustees of TEAMSTERS LOCAL 445 FREIGHT  
DIVISION PENSION FUND,

Plaintiff,

-against-

MID-HUDSON STEEL CORP., GRAMMER,  
DEMPSEY & HUDSON, INC., BRIDGEPORT  
STEEL CO., BUELL SPECIALTY STEEL CO.,  
PABRICO STEEL FABRICATORS, INC., ELKHART  
SCRAP METALS CORP., ELKHART SCRAP LIGHT  
HAULING, ZINC CONSTRUCTION CORP., and  
AIROTRAX, INC.,

Defendants.

**Civil Action No. 07 Civ 5926**  
**(CLB)(MDF)**

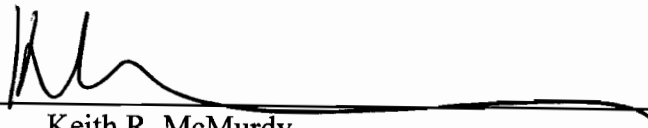
**AFFIDAVIT OF KEITH R. MCMURDY**

KEITH R. MCMURDY, an attorney admitted to practice before this Court, declares, pursuant to 28 U.S.C. §1746, being duly sworn, competent to testify, and under penalty of perjury states as follows:

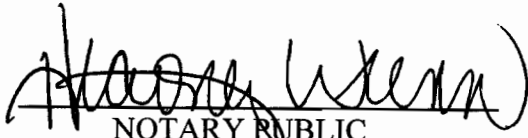
1. I am a partner with the law firm of Fox Rothschild LLP, attorney for Mid-Hudson Steel Corporation, Grammer, Dempsey & Hudson, Inc., Bridgeport Steel Co., Buell Specialty Steel Co., and Pabrico Steel Fabricators, Inc.
2. Attached here as Exhibit A is a copy my letter of March 25, 2005, to counsel for the Plaintiff disputing the withdrawal liability calculation and requesting arbitration.
3. Neither Plaintiffs nor their counsel ever responded to the request for arbitration.
4. Throughout 2005, I had multiple phone conferences with counsel for the Plaintiff, Kellie Therese Walker, to discuss the nature of the disputed liability.
5. Attached hereto as Exhibit B are copies of portions of the deposition transcript of James Hudson.

I do swear.

Dated: July 15, 2008

  
Keith R. McMurdy

Signed and sworn before me this  
15<sup>th</sup> day of July, 2008.

  
NOTARY PUBLIC

**HEATHER WRENN**  
Notary Public, State of New York  
No. 01WR6134614  
Qualified in Queens County  
Commission Expires October 3, 2009

**Exhibit A**

GROTTA, GLASSMAN & HOFFMAN, P.C.

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<sup>4</sup> Also Admitted in DC  
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<sup>6</sup> Also Admitted in MI & OH

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March 15, 2005

**VIA FACSIMILE (914-682-9128) AND REGULAR MAIL**

Kellie Terese Walker, Esq.  
Sapir & Frumkin L.L.P.  
399 Knollwood Road #310  
White Plains, New York 10603

**Re: Mid-Hudson Steel Corp.  
Claims for Withdrawal Liability  
Teamsters Local 445 Freight Division Pension Fund**

Dear Ms. Walker:

As previously noted, we have received the documentation that we requested with respect to the claim for withdrawal liability. After reviewing that documentation, we believe that the Fund has improperly calculated the claimed liability and request that the calculations be verified. We also request that this matter be arbitrated to determine the actual amount of liability and we will provide you with our experts' calculations in the near future.

GROTTA, GLASSMAN & HOFFMAN, P.C.

Kellie Terese Walker, Esq.

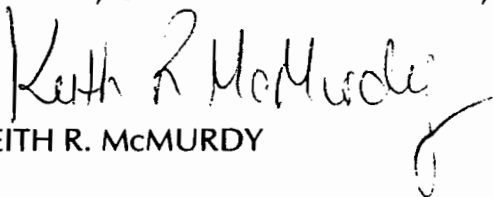
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March 15, 2005

In the interim, our client's continued submission of monthly payments should not be considered an admission of liability or an acquiescence that the Fund calculations are accurate. Thank you for your continued attention to this matter.

Very truly yours,

GROTTA, GLASSMAN & HOFFMAN, P.A.

  
KEITH R. McMURDY

KRM/cb

**Exhibit B**

COPY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
ADRIAN HUFF, as Chairman of the Board of Trustees  
of TEAMSTERS LOCAL 445 FREIGHT DIVISION PENSION  
FUND,

Plaintiff,

CIVIL ACTION NO. 07 CIV. 5926

-against-

MID-HUDSON STEEL CORP., GRAMMAR, DEMPSEY & HUDSON,  
INC., BRIDGEPORT STEEL CO., BUELL SPECIALTY STEEL  
CO., PABRICO STEEL FABRICATORS INC., ELKHART SCRAP  
METALS CORP., ELKHART SCRAP LIGHT HAULING, ZINC  
CONSTRUCTION CORP., and AIROTRAX, INC.,

Defendants.  
-----

300 Quarropas Street  
White Plains, New York  
April 30, 2008  
10:15 a.m.

Deposition of the Defendant, GRAMMER, DEMPSEY  
& HUDSON, INC., by and through JAMES F. HUDSON,  
held pursuant to notice at the above time and  
place before a Notary Public of the State of New  
York.

Valerie Tatavitto  
Shorthand Reporter

1 JAMES F. HUDSON

2 of the companies that you indicated that you had  
3 an ownership interest in or --

4 A. No.

5 Q. -- were a director for?

6 A. No. Strictly arm's length.

7 Q. Now, during the year prior to the  
8 cessation of operations of Mid-Hudson, did it  
9 share any of its phone or fax numbers with any  
10 other companies or was it exclusively when you  
11 called that number, you got Mid-Hudson and no  
12 other entity?

13 A. Correct.

14 Q. So it was exclusively for Mid-Hudson?

15 A. Correct.

16 Q. You indicated they ceased operation.  
17 What is the financial status of the company?

18 A. What was or what is?

19 Q. Well, what is? How is it wound down?

20 A. Well, when we ceased operations, we  
21 did -- we had no funds, operating funds.

22 Q. Did the company file for bankruptcy?

23 A. No.

24 Q. Okay. To the best of your  
25 understanding, did Mid-Hudson ever pay to the



1 JAMES F. HUDSON

2 Local 445, Local 445 funds payments for withdrawal  
3 liability?

4 A. Yes.

5 Q. And at some point those payments made  
6 by Mid-Hudson ceased; is that correct?

7 A. Yes.

8 Q. When did Mid-Hudson stop paying  
9 withdrawal liability to the funds?

10 A. I have a record with me. I have to  
11 look it up.

12 Q. First of all, do you recall off the  
13 top of your head?

14 A. It was about 2007. Early 2007.

15 Q. And what records are you referring  
16 to?

17 A. Well, I have a list of the dates that  
18 we sent checks to the fund.

19 Q. Okay.

20 A. And the last one was 1/5/07.

21 Q. From Mid-Hudson?

22 A. Yeah. what do you mean by from  
23 Mid-Hudson?

24 Q. Mid-Hudson was the entity writing the  
25 check. Did some other company take over payments